

REMARKS:

Claims 1, 3-9, and 11-16 are presented for examination. Claims 1, 5, 9 and 13 have been amended hereby. Claims 2 and 10 have been cancelled, without prejudice or disclaimer.

In response to the Examiner's requirement for new corrected drawings, such new corrected drawings are submitted herewith.

Reconsideration is respectfully requested of the rejection of claims 1 and 9 under 35 U.S.C. 112, second paragraph.

The term "at least some of the input data" has been changed to "the input data" in connection with the claimed element directed to "calculating a plurality of values of earnings per share associated with the entity".

Therefore, it is respectfully submitted that the rejection of claims 1 and 9 under 35 U.S.C. 112, second paragraph, has been overcome.

Regarding the rejection of claims 2 and 10 under 35 U.S.C. 112, second paragraph, it is noted that the cancellation of these claims has rendered their rejection moot.

Nevertheless, the Examiner's attention is directed to the fact that independent claims 1 and 9 have been amended hereby to recite (in a manner similar to that of now-cancelled claims 2 and 10) that the iterative calculating of the earnings per share values is carried out by iteratively changing at least the value of the stock price associated with the entity.

In this regard, it is noted (in order to address the issue raised by the Examiner at page 3 of the April 6, 2007 Office Action) that a change in stock price can change the result of the formula of claim 1 and the formula of claim 9 because the stock price can affect the number of shares such as, for example, due to the decision whether or not to convert (this is explicitly recited in the claims where it is stated that the number of shares reflects the possibility, based upon an economically reasonable analysis in light of market conditions including a value of a stock price associated with the entity, of conversion of a convertible security).

Reconsideration is respectfully requested of the rejection of claims 1, 3, 4, 8, 9, 11, 12 and 16 under 35 U.S.C. 103(a) as allegedly being unpatentable over *Intermediate Accounting*, 5th Edition, hereinafter "Nikolai et al." (of note, the cancellation of claims 2 and 10 has rendered their rejection moot).

It is respectfully submitted that applicants do not concur with the Examiner in the

Examiner's analysis of the claims of the present application and the Nikolai et al. reference.

For example, each of claims 1 and 9 (the two pending independent claims) recite the feature directed to:

- “iteratively calculating a plurality of values of earnings per share associated with the entity... wherein the iterative calculating the plurality of values of earnings per share is carried out by iteratively changing at least the value of the stock price associated with the entity” (emphasis added)

In other words, not only is there an iterative calculation of a plurality of values of earnings per share, but such iterative calculation is carried out by changing at least the value of the stock price associated with the entity.

It is respectfully submitted that this claimed calculation feature is not taught, shown or suggested by Nikolai et al.

More particularly, it is respectfully submitted that the various tentative primary EPS values discussed by Nikolai et al. at page 1190 are not calculated “by changing at least the value of the stock price associated with the entity” (emphasis added).

In fact, it is noted that the stock options and warrants calculation carried out at page 1191 of Nikolai et al. is based a single “average market price of common shares during the period”. Thus, it is respectfully submitted that this portion of Nikolai et al. actually teaches away from an iterative calculation of earnings per share which operates “by changing at least the value of the stock price associated with the entity” (emphasis added).

Similarly, it is respectfully submitted that the convertible securities discussion by Nikolai et al. at pages 1193-1198 likewise fails to teach, show or suggest an iterative calculation of earnings per share which operates “by changing at least the value of the stock price associated with the entity” (emphasis added).

Therefore, it is respectfully submitted that the rejection of claims 1 and 9 (as well as claims 3, 4, 8, 11, 12 and 16, depending therefrom) under 35 U.S.C. 103(a) as allegedly being unpatentable over Nikolai et al. has been overcome.

Reconsideration is respectfully requested of the rejection of claim 5 under 35 U.S.C. 103(a)

as allegedly being unpatentable over Nikolai et al. in view of U.S. Patent No. 6,061,662, hereinafter “Makivic”.

Initially, it is noted that applicants do not necessarily concur with the Examiner in the Examiner’s analysis of the claims and Nikolai et al. and Makivic.

Nevertheless, in order to expedite prosecution of the application, it will simply be noted that claim 5 depends from independent claim 1.

Thus, this claim 5 is submitted to be patentably distinct for at least the same reasons as independent claim 1 discussed above.

Therefore, it is respectfully submitted that the rejection of claim 5 under 35 U.S.C. 103(a) as allegedly being unpatentable over Nikolai et al. in view of Makivic has been overcome.

Reconsideration is respectfully requested of the rejection of claims 6 and 7 under 35 U.S.C. 103(a) as allegedly being unpatentable over Nikolai et al. in view of Official Notice concerning plotting of variables on a graph.

Initially, it is noted that applicants do not necessarily concur with the Examiner in the Examiner’s analysis of the claims and Nikolai et al. and the Official Notice concerning plotting of variables on a graph.

Nevertheless, in order to expedite prosecution of the application, it will simply be noted that each of claims 6 and 7 depends (directly or indirectly) from independent claim 1.

Thus, these claims 6 and 7 are submitted to be patentably distinct for at least the same reasons as independent claim 1 discussed above.

Therefore, it is respectfully submitted that the rejection of claims 6 and 7 under 35 U.S.C. 103(a) as allegedly being unpatentable over Nikolai et al. in view of Official Notice concerning plotting of variables on a graph has been overcome.

Reconsideration is respectfully requested of the rejection of claim 13 under 35 U.S.C. 103(a) as allegedly being unpatentable over Nikolai et al. in view of Makivic.

Initially, it is noted that applicants do not necessarily concur with the Examiner in the Examiner’s analysis of the claims and Nikolai et al. and Makivic.

Nevertheless, in order to expedite prosecution of the application, it will simply be noted that claim 13 depends from independent claim 9.

Thus, this claim 13 is submitted to be patentably distinct for at least the same reasons as

independent claim 9 discussed above.

Therefore, it is respectfully submitted that the rejection of claim 13 under 35 U.S.C. 103(a) as allegedly being unpatentable over Nikolai et al. in view of Makivic has been overcome.

Reconsideration is respectfully requested of the rejection of claims 14 and 15 under 35 U.S.C. 103(a) as allegedly being unpatentable over Nikolai et al. in view of Official Notice concerning plotting of variables on a graph.

Initially, it is noted that applicants do not necessarily concur with the Examiner in the Examiner's analysis of the claims and Nikolai et al. and the Official Notice concerning plotting of variables on a graph.

Nevertheless, in order to expedite prosecution of the application, it will simply be noted that each of claims 14 and 15 depends (directly or indirectly) from independent claim 9.

Thus, these claims 14 and 15 are submitted to be patentably distinct for at least the same reasons as independent claim 9 discussed above.

Therefore, it is respectfully submitted that the rejection of claims 14 and 15 under 35 U.S.C. 103(a) as allegedly being unpatentable over Nikolai et al. in view of Official Notice concerning plotting of variables on a graph has been overcome.

Accordingly, it is respectfully submitted that each rejection raised by the Examiner in the April 6, 2007 Office Action has been overcome and that the above-identified application is now in condition for allowance.

Finally, it is noted that this Amendment is fully supported by the originally filed application and thus, no new matter has been added. For this reason, the Amendment should be entered.

For example, support for the amendments to claims 1 and 9 regarding the number of shares reflecting the possibility, based upon an economically reasonable analysis in light of market conditions including a value of a stock price associated with the entity, of conversion of a convertible security, may be found in claims 1, 2, 9 and 10, as filed; page 19, lines 1-8; page 21, lines 8-12; page 21, line 19 to page 22, line 5, and throughout the specification.

Further, support for the amendments to claims 1 and 9 regarding iteratively calculating the plurality of values of earnings per share by iteratively changing at least the value of the stock price associated with the entity may be found, for example, in claims 1, 2, 9 and 10, as filed; page 7, lines 21-25; page 9, lines 1-10; and throughout the specification.

Further, support for the amendments to claims 1 and 9 regarding iteratively calculating a plurality of values of earnings per share risk associated with the entity based upon at least a plurality of different numbers of shares outstanding may be found, for example at page 13, line 26 to page 16, line 5; and throughout the specification.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,
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